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BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

No. D-2913

Kenneth J. Kirkwood, M.D.)
Certificate No. G-39643)

Respondent)
_____)

DECISION

The attached Stipulation is hereby adopted by the
Division of Medical Quality of the Board of Medical Quality
Assurance as its Decision in the above-entitled matter.

This Decision shall become effective on February 18, 1983.

IT IS SO ORDERED January 19, 1983.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE


MILLER MEDEARIS
Secretary-Treasurer

1 GEORGE DEUKMEJIAN, Attorney General
of the State of California
2 DANIEL J. WESTON
Deputy Attorney General
3 555 Capitol Mall, Suite 350
Sacramento, California 95814
4 Telephone: (916) 445-7877
5 Attorneys for Complainant.

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8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the Accusation) No. D-2913
Against:)
13)
Kenneth J. Kirkwood, M. D.) STIPULATION
14 3704 Rock Island Drive) AND ORDER
Sacramento, California)
15)
Respondent.)
16 _____)

17 Respondent, Kenneth J. Kirkwood, M. D., and the Board
18 of Medical Quality Assurance, Division of Medical Quality, through
19 its counsel, Deputy Attorney General Daniel J. Weston, do hereby
20 enter into the following stipulation:

21 1. Respondent, Kenneth J. Kirkwood, M.D., hereby
22 acknowledges receipt of Accusation No. D-2913, Statement to
23 Respondent, and copies of the Notice of Defense form.

24 2. Respondent and his counsel have in the past fully
25 discussed the charges and allegations contained in said Accusation
26 No. D-2913, on file with the Division of Medical Quality, Board
27 of Medical Quality Assurance, and respondent has been fully

1 advised with regard to his rights in this matter.

2 3. Respondent is fully aware of the right to a
3 hearing on the charges and allegations contained in said
4 Accusation No. D-2913, his right to reconsideration, appeal and
5 any and all other rights which may be accorded pursuant to the
6 California Administrative Procedure Act and the laws of the
7 State of California.

8 4. Respondent hereby freely and voluntarily waives
9 his right to a hearing, reconsideration, appeal and any and all
10 other rights which may be accorded by the California Administrative
11 Procedure Act and the laws of the State of California with regard
12 to said Accusation No. D-2913.

13 5. Respondent admits each and every allegation con-
14 tained in Accusation No. D-2913, including the allegations
15 contained in Paragraph VI thereof. Paragraph VI of said Accusa-
16 tion is as follows:

17 "On April 22, 1982 respondent entered a plea of
18 nolo contendere to the charge of violating section 11190
19 of the Health and Safety Code as set forth in amended com-
20 plaint No. 58076F in the Sacramento Municipal Court, County
21 of Sacramento, State of California.

22 "Said amended complaint charged as follows:

23 "'The People of the State of California upon oath
24 of J [REDACTED] B [REDACTED] complain against the defendant
25 above named for the crime . . . committed as follows:
26 That on and between the 25th day of June, 1981 and
27 the 18th day of October, 1981, at and in the County

1 of Sacramento, State of California, the defendant
2 KENNETH JAMES KIRKWOOD then and there before the
3 filing of this amended complaint, did willfully
4 and unlawfully dispense or administer a controlled
5 substance, to wit, Cocaine, to the persons of
6 CA [REDACTED] M [REDACTED], TA [REDACTED] M [REDACTED], DO [REDACTED] S [REDACTED],
7 TA [REDACTED] R [REDACTED], MI [REDACTED] G [REDACTED], G [REDACTED] S [REDACTED], M [REDACTED]
8 WI [REDACTED], P [REDACTED] G [REDACTED], C [REDACTED] P [REDACTED], C [REDACTED]
9 W [REDACTED], T [REDACTED] W [REDACTED], S [REDACTED] T [REDACTED] and A [REDACTED]
10 H [REDACTED], and failed to record said transactions to
11 show the names and addresses of said patients, the
12 dates of said transactions, the character and
13 quality of the controlled substance involved and
14 the pathology for which the controlled substance
15 was dispensed or administered, said defendant
16 being a licensed practitioner within the meaning
17 of Health and Safety Code Section 11190.'"

18 6. Based on the foregoing stipulation, the Division
19 of Medical Quality, Board of Medical Quality Assurance, may
20 issue the following order:

21 A. The license to practice medicine and surgery in
22 the State of California heretofore issued to respondent is
23 revoked; provided, however, execution of this order of
24 revocation shall be stayed and respondent shall be placed on
25 probation for a period of two years from and after the effect-
26 ive date of this decision upon the terms and conditions listed
27 herein:

1 1. OBEY ALL LAWS. Respondent shall obey all federal,
2 state, and local laws and all rules governing the practice of
3 medicine in California.

4 2. QUARTERLY REPORTS. Respondent shall submit
5 quarterly declarations under penalty of perjury on forms
6 provided by the Division, stating whether there has been
7 compliance with all the conditions of probation.

8 3. SURVEILLANCE PROGRAM. Respondent shall comply
9 with the Division's probation surveillance program.

10 4. INTERVIEW WITH MEDICAL CONSULTANT. Respondent
11 shall appear in person for interviews with the Division's
12 medical consultant upon request at various intervals and with
13 reasonable notice.

14 5. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE.
15 In the event respondent should leave California to reside or to
16 practice outside the State, respondent must notify in writing
17 the Division of the dates of departure and return. Periods of
18 residency or practice outside California will not apply to the
19 reduction of this probationary period.

20 6. VIOLATION OF PROBATION. If respondent violates
21 probation in any respect, the Division, after giving respondent
22 notice and the opportunity to be heard, may revoke probation and
23 carry out the disciplinary order that was stayed or, in its
24 discretion, may impose a lesser penalty. If an accusation or
25 petition to revoke probation is filed against respondent during
26 probation, the Division shall have continuing jurisdiction until
27 the matter is final, and the period of probation shall be

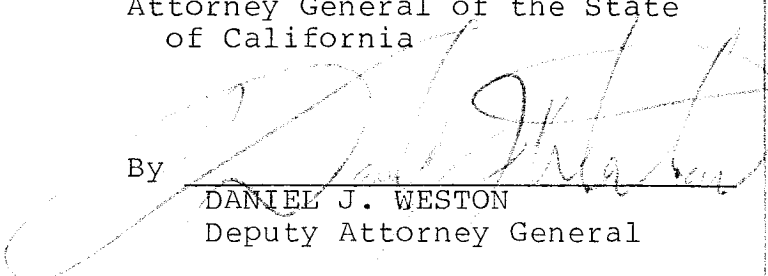
1 extended until the matter is final.

2 7. COMPLETION OF PROBATION. Upon successful comple-
3 tion of probation, respondent's certificate will be fully
4 restored.

5 It is agreed that the terms set forth herein shall
6 be null and void and not binding upon the parties hereto unless
7 approved by the Board of Medical Quality Assurance of the State
8 of California.

9 DATED: 10-18-82

10 GEORGE DEUKMEJIAN
11 Attorney General of the State
12 of California

13 By 
14 DANIEL J. WESTON
15 Deputy Attorney General

16 Attorneys for Complainant.

17 DATED: 10-8-82

18 
KENNETH J. KIRKWOOD, M. D.

19 Respondent.
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 of the State of California
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 DIVISION OF MEDICAL QUALITY
 BOARD OF MEDICAL QUALITY ASSURANCE
 DEPARTMENT OF CONSUMER AFFAIRS
 STATE OF CALIFORNIA

In the Matter of the Accusation)
 Against:)

No. D-2913

Kenneth J. Kirkwood, M.D.)
 3704 Rock Island Drive)
 Sacramento, CA)

ACCUSATION

Respondent.)

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COMES NOW THE COMPLAINANT, ROBERT ROWLAND, and as

causes for disciplinary action against the above-named respondent,
 alleges as follows:

I

Complainant, Robert Rowland, is the Executive
 Director of the Board of Medical Quality Assurance of the
 State of California (hereinafter referred to as the "Board")
 and makes this Accusation solely in such official capacity.

II

Respondent, Kenneth J. Kirkwood, M.D., on or about
 July 2, 1979, was issued Physician's and Surgeon's Certificate

1 No. G-39643 by the Board to practice medicine and surgery in
2 the State of California.

3 Respondent's official address of record is as is
4 set forth in the caption.

5 III

6 Section 2236 of the Business and Professions Code
7 provides, inter alia, that the conviction by verdict or by
8 plea of guilty or plea of nolo contendere of any offense
9 substantially related to the qualifications, functions, or
10 duties of a physician and surgeon constitutes unprofessional
11 conduct within the meaning of this chapter, and that the
12 division may inquire into the circumstances surrounding the
13 commission of the crime in order to fix the degree of discipline
14 or to determine if such conviction is of an offense substantially
15 related to the qualifications, functions, or duties of a
16 physician and surgeon.

17 IV

18 Section 11190 of the Health and Safety Code provides
19 inter alia that a physician and surgeon:

20 ". . . who issues a prescription, or dispenses
21 or administers a controlled substance classified
22 in Schedule II shall make a record that, as to the
23 transaction, shows all of the following:

24 "(a) The name and address of the patient.

25 "(b) The date.

26 "(c) The character and quantity of controlled
27 substances involved. The prescriber's record

1 shall show the pathology and purpose for which the
2 prescription is issued, or the controlled substance
3 administered, prescribed, or dispensed."

4 V

5 Cocaine is a Schedule II controlled substance
6 pursuant to section 11055(b)(4) of the Health and Safety
7 Code.

8 VI

9 On April 22, 1982 respondent entered a plea of
10 nolo contendere to the charge of violating section 11190 of
11 the Health and Safety Code as set forth in amended complaint
12 No. 58076F in the Sacramento Municipal Court, County of
13 Sacramento, State of California.

14 Said amended complaint charged as follows:

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16 of J [REDACTED] B [REDACTED] complain against the defendant
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22 filing of this amended complaint, did willfully
23 and unlawfully dispense or administer a controlled
24 substance, to wit, Cocaine, to the persons of

25 CA [REDACTED] M [REDACTED], T [REDACTED] M [REDACTED], D [REDACTED] S [REDACTED],
26 TA [REDACTED] R [REDACTED], M [REDACTED] G [REDACTED], G [REDACTED] S [REDACTED], M [REDACTED]
27 W [REDACTED], P [REDACTED] G [REDACTED], C [REDACTED] P [REDACTED], C [REDACTED]

1 W[REDACTED], T[REDACTED] W[REDACTED], S[REDACTED] T[REDACTED] and A[REDACTED]
2 H[REDACTED], and failed to record said transactions to
3 show the names and addresses of said patients, the
4 dates of said transactions, the character and
5 quality of the controlled substance involved and
6 the pathology for which the controlled substance
7 was dispensed or administered, said defendant
8 being a licensed practitioner within the meaning
9 of Health and Safety Code Section 11190."

10 VII

11 The conviction of respondent as more particularly
12 set forth in paragraph VI hereinabove constitutes a conviction
13 within the meaning of Section 2336 of the Business and Profes-
14 sions Code as aforesaid.

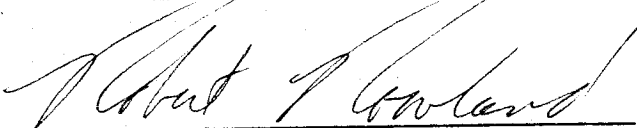
15 * * * * *

16 WHEREFORE, complainant prays that the Division of
17 Medical Quality hold a hearing on the matters alleged herein
18 and following a hearing issue a decision:

19 (1) Revoking or suspending the certificate of
20 respondent; and

21 (2) Taking such other and further action as is
22 deemed necessary and proper.

23 DATED: This 29th day of June, 1982.

24 
25 ROBERT ROWLAND
26 Executive Director
27 Board of Medical Quality Assurance
Complainant.